



Questions and Answers: Peñasco Least Chipmunk Proposed Listing and Critical Habitat Designation

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Contacts: Aislinn Maestas, Aislinn_maestas@fws.gov, 505-248-6599

Q: What action is the U.S. Fish and Wildlife Service taking?

A: The Service is proposing to list the Peñasco least chipmunk as endangered under the Endangered Species Act (ESA). In addition, we are proposing to designate three units of critical habitat totaling approximately 6,574 acres in New Mexico.

Q: What is Peñasco least chipmunk and where is it found?

A: The Peñasco least chipmunk (*Neotamias minimus atristriatus*) is currently recognized as one of 17 subspecies of least chipmunk. Least chipmunks are smaller than most other chipmunk species and belong to the family Sciuridae. The Peñasco least chipmunk is a subspecies found only in New Mexico. It was historically found in the Sacramento and White mountains in Lincoln and Otero counties of New Mexico, and is now found in low numbers only in the White Mountains.

In the Sacramento Mountains, the habitat of the Peñasco least chipmunk is described as meadows and grasslands in canyon bottoms, as well as interspersed open meadows and understory of old growth ponderosa pine forests comprised of a park-like understory of native grasses with a low density of trees, at approximately 6,900 to 8,000 feet in elevation. In the White Mountains, just north of the Sacramento Mountains, the habitat of the Peñasco least chipmunk is described as occurring in Thurber's fescue grassland meadow communities that are associated with rock outcrop areas in high elevation above 10,200 feet.

Q: What are the primary threats to the species?

A: After a review of the best available scientific and commercial information, the Service determined the Peñasco least chipmunk is at risk of extinction due to the small size and isolation of its single remaining known population. The risk of species extinction from a disease outbreak, such as sylvatic plague, large wildfire, or extreme drought is high. Additional threats to the species include vegetation shifts, non-native wildlife and forest encroachment.

Q: Are there any conservation efforts focused on the Peñasco least chipmunk?

A: There are no current conservation actions planned or underway.

Q: Where is the Service proposing critical habitat for the species?

A: The Service has identified and delineated three proposed critical habitat units, totaling approximately 6,574 acres.

- Unit 1 consists of approximately 393 hectares (972 acres) of known occupied subalpine habitat within the Lincoln National Forest Wilderness Area in New Mexico.
- Unit 2 consists of approximately 910 hectares (2,249 acres) of subalpine habitat also located within the Lincoln National Forest Wilderness Area. It is considered unoccupied, resulting from a lack of survey data. Unit 2 does contain the physical or biological features necessary for the conservation of the subspecies as a connectivity corridor between Unit 1 and Unit 3.
- Unit 3 includes approximately 1,357 hectares (3,353 acres) of known occupied subalpine habitat located within the Lincoln National Forest, Lincoln National Forest Wilderness Area and Mescalero Apache Tribal lands.

The proposed critical habitat designation does not include all areas known to have been occupied by the Peñasco least chipmunk historically; instead, it focuses on a portion of the occupied area within the historical range that retains the necessary physical or biological features that will allow for the maintenance and expansion of the existing population.

Q: What is critical habitat?

A. As defined by the ESA, critical habitat identifies geographic areas containing features essential for the conservation of a threatened or endangered species, and which may require special management considerations or protection. The ESA defines “conservation” as the actions leading to eventual recovery of a species to the point where it is no longer threatened or endangered.

Critical habitat provides a prohibition against destruction or adverse modification from actions carried out, funded, or authorized by a federal agency (federal nexus) and is carried out through required consultation under section 7 of the ESA.

Q. What is the purpose of designating critical habitat?

A. A critical habitat designation generally has no effect on land-use activities that do not involve a federal agency or nexus — for example, a private landowner undertaking a project that involves no federal funding or permit. Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize to ensure that their actions will not destroy or adversely modify critical habitat. In this way, a critical habitat designation protects areas that are necessary for the conservation of the species.

Q. Do listed species in critical habitat areas receive more protection?

A. Listed species and their habitats are protected by the ESA whether or not they are in an area designated as critical habitat. To understand the additional protection that critical habitat provides to a species, it is first necessary to understand the protection afforded to any endangered or threatened species, irrespective of critical habitat.

The ESA requires that federal agencies or entities with a federal nexus conduct their activities in such a way as to conserve species. The ESA also requires federal agencies to consult with the Service to conserve listed species on their lands and ensure that any activity they fund, authorize, or carry out will not jeopardize the survival of a threatened or endangered species. This process is known as a section 7 [consultation](#).

Q: Does a critical habitat designation mean an area is considered a wildlife refuge or sanctuary?

A: The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. A critical habitat designation identifies areas that are important to the conservation of federally listed threatened or endangered species. A critical habitat designation requires federal agencies to consult with the Service on any of their actions that may affect critical habitat in designated areas. The Service can then recommend ways to minimize any adverse effects. It imposes no requirements on state or private actions on state or private lands where no federal funding, permits or approvals are required.

Q. What is the ownership of each unit of proposed critical habitat?

A. The proposed critical habitat overlaps significantly with Mexican spotted owl critical habitat and is predominantly on federal land. A portion (43 percent) of Unit 3 is located on Mescalero tribal lands. The Ski Apache Resort resides in this unit; the land is owned by the U.S. Forest Service, but managed under a permit by the Mescalero Apache Tribe. An exclusion is being considered for tribal areas included in this critical habitat proposal. However, the final decision on whether to exclude any areas will be based on the best scientific and commercial data available at the time of the final designation. This includes information obtained during the comment period and information about the economic impacts of the designation.

Q: Will this critical habitat designation impact landowners?

A: Critical habitat designated on private lands only restricts landowner activity if it requires a federal permit, federal funding or other federal nexus.

Federal agencies, however, would need to demonstrate that the actions they plan to undertake, fund or authorize do not destroy or adversely modify critical habitat to an extent that it defeats the conservation purpose of the entire designation. If a proposed action is determined to likely destroy or adversely modify critical habitat, the Service would then work with the federal agencies and project applicants to amend the activity to avoid reaching that threshold. As a result of this process, most projects move forward, with some being modified to minimize harm.

Q: What economic impacts will the proposed rule have?

A: The draft economic analysis for this action estimates incremental costs of the total critical habitat designation for the Peñasco least chipmunk in the first year are unlikely to exceed \$5,000. Federal agencies are the entities most likely to incur incremental costs associated with

designating critical habitat, due to section 7 requirements. We do not anticipate any costs to state or local agencies.

Q: How do I comment on the proposal?

A: The Service is requesting comments or information from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested parties concerning the proposed rules. Comments must be received within 60 days, on or before November 29, 2021. For more information on these proposals, what to comment on, or how to submit comments, see the *Federal Register* notice FWS–R2–ES–2020–0042.